

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of:)	Docket No. 12-OIR-04
)	
Proposed Amendments to Energy)	
Commission Conflict of Interest)	
Regulations, California Code of)	
Regulations, Title 20, Section 2402)	

Notice of Intention to Amend the Energy Commission's Conflict-of-Interest Regulations

NOTICE IS HEREBY GIVEN that the California Energy Commission, pursuant to the authority vested by sections 87300 and 87306 of the Government Code, proposes to amend the Energy Commission's conflict of interest code in the California Code of Regulations, Title 20, section 2402 (Appendix).

Pursuant to Government Code sections 87300 through 87302 and section 87306, the conflict of interest code designates employees and others who must file an annual (Form 700) statement of economic interests with the Energy Commission. The annual statement discloses certain investments, sources of income, interests in real property, and business positions. Employees and other classifications listed in the code must disqualify themselves from making or participating in the making of governmental decisions affecting their relevant interests. The amendments are proposed to revise and update designated positions, interests affiliated with those positions, and disclosure categories. The amendments include:

- Addition and deletion of designated positions
- Amended disclosure categories for certain positions
- Changes to disclosure category 6, regarding utility-related business interests.

GENERAL DESCRIPTION OF THE PROPOSED AMENDMENTS

Per Fair Political Practices Commission regulations, this Notice provides a summary of the provisions of the existing code which will be affected by the proposed amendments, and a summary of how these provisions will be affected by the proposed amendments. (See Cal. Code of Regs., tit. 2, § 18750, subd. (c)(3)(A).)

The proposed amendments will update the conflict of interest code Appendix at Title 20 of the California Code of Regulations, section 2402 (a) and (b). The Appendix lists designated employee positions required to annually submit a statement of economic interests ("Form 700") and the assigned disclosure categories for financial interests that potentially affect Energy Commission matters.

The Energy Commission's conflict of interest code sections are proposed for amendments to reflect the current organizational structure of the Energy Commission, with updates to add new and newly-designated positions, delete designated positions that no longer exist, change the disclosure categories for certain positions, clarify the language of disclosure Category 6 (regarding utility-related business interests), and other nonsubstantive changes.

Express terms and the Initial Statement of Reasons explaining each amendment will be made available to Energy Commission employees and other interested persons starting on December 28, 2012.

WRITTEN COMMENT PERIOD

A written comment period is hereby established starting on December 28, 2012 and ending on February 13, 2012. Any interested person may submit written comments concerning the proposed conflict of interest code amendments to:

Docket No. 12-OIR-04
California Energy Commission
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

or via e-mail to: docket@energy.ca.gov.

PUBLIC HEARING

The Energy Commission will consider adoption of the proposed amendments at a public hearing held during its regularly scheduled business meeting on February 13, 2013 at 10 a.m. The hearing will take place at the Energy Commission, Hearing Room A, 1516 Ninth Street, Sacramento, California.

Any interested person may comment during the agenda item for the conflict of interest proposed amendments. The business meeting agenda is due to be published on February 1, 2013. To see the agenda, directions for remote access to the meeting, and general information, go to the business meeting section of the Energy Commission website, http://www.energy.ca.gov/business_meetings/.

AVAILABILITY OF PROPOSED AMENDMENTS

The Energy Commission has prepared a written explanation of the reasons for the designations, disclosure categories, and disclosure responsibilities, and has available all of the information upon which the proposal is based. Copies of the proposed amendments to the conflict of interest code and the initial statement of reasons may be downloaded from the Energy Commission's Intranet for employees during the comment period beginning December 28, 2012. Copies of the amendments and the initial statement of reasons may also be requested from the agency contact listed below.

AGENCY CONTACT

Copies of the proposed amendments to the conflict of interest code and all of the information upon which the amendments are based may be obtained from, and any inquiries concerning the proposed amendments should be directed to:

California Energy Commission
Attention: Robin Mayer, Attorney
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
(916) 651-2921
robin.mayer@energy.ca.gov

ALTERNATIVES CONSIDERED

Pursuant to Government Code sections 11346.2 and 11346.5 et seq., and Fair Political Practices Commission regulations (tit. 2, § 18750, subd. (c)(3)(K)) the Energy Commission has determined that no alternatives considered by the Commission would be more effective in carrying out the purpose for which the rulemaking is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

COSTS AND SAVINGS

The proposed amended conflict of interest code:

- Imposes no mandate on local agencies or school districts
- Imposes no cost or savings on any State agency
- Imposes no cost on any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of title 2 of the Government Code
- Will not result in any nondiscretionary cost or savings to local agencies
- Will not result in any cost or savings in federal funding to the State
- Will not have any potential cost impact on private persons or businesses, including small businesses.

PREPARATION OF THE INITIAL STATEMENT OF REASONS

The Energy Commission has prepared a written explanation for the proposed amendments to section 2402, Title 20 of the California Code of Regulations, to provide reasons for the designations of positions, disclosure categories, and disclosure responsibilities, and has available all of the information upon which the proposal is based.

POLICY STATEMENT OVERVIEW

As required by Energy Commission regulations, this notice also explains the broad objectives of the proposed amendments and the specific benefits anticipated by their adoption. (Cal. Code of Regs., tit. 20, § 1222 [requiring procedures in accordance with Gov. Code, § 11346.5].)

The broad objective of the proposed amendments is to fulfill the purpose and the mandates of the Political Reform Act of 1974. (Gov. Code, § 87100 et seq.)

The purpose of the Political Reform Act (“Act”) is, in relevant part, to assure that public officials perform their duties impartially, without bias due to personal financial interests or the interests of financial supporters. The Act also requires the disclosure of income and assets that could be affected by official actions and disqualification from participating in decisions when there is a conflict of interest.

To meet the purpose of the Act, each state agency is required to adopt a conflict of interest code applicable to certain positions affiliated with the agency. In addition, Government Code section 87306, subdivision (b), mandates that each state agency submit a biennial report that identifies all new positions that must file a Form 700 Statement of Economic Interests, any changes in the list of reportable sources of income, and relevant changes in the duties assigned to existing positions. The standard for whether an employee must report a particular financial interest is whether the employee is involved in the making or the participation in the making of decisions which may foreseeably have a material effect on any financial interest. (Gov. Code, § 87302, subd. (a).) Financial interests include investments, business positions, interests in real property, and sources of income. (*Ibid.*)

The benefits of the proposed amendments are to ensure that the employee designated positions and disclosure categories accurately reflect the current Energy Commission organizational structure, job duties and relevant financial interests, and to ensure that the disclosure categories for reportable interests are narrowly tailored for each designated position.